



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R09-OAR-2020-0309; FRL-10011-43-Region 9]

#### **Finding of Failure to Attain the 2006 24-Hour Fine Particulate Matter Standards; California; Los Angeles-South Coast Air Basin**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the Los Angeles-South Coast Air Basin nonattainment area failed to attain the 2006 24-hour fine particulate matter (“PM<sub>2.5</sub>”) national ambient air quality standards by the December 31, 2019 “Serious” area attainment date. This proposed determination is based on ambient air quality monitoring data from 2017 through 2019. If the EPA finalizes this determination as proposed, the State of California will be required to submit a revision to the California State Implementation Plan that, among other elements, provides for expeditious attainment within the time limits prescribed by regulation and provides for a five percent annual reduction in the emissions of direct PM<sub>2.5</sub> or a PM<sub>2.5</sub> plan precursor pollutant. We are also proposing to correct an error in the table of California area designations for the 2006 PM<sub>2.5</sub> national ambient air quality standards.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0309 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the

online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Ginger Vagenas, Air Planning Office (AIR-2), EPA Region IX, (415) 972-3964, [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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**I. Background**

*A. PM<sub>2.5</sub> National Ambient Air Quality Standards*

Under section 109 of the Clean Air Act (CAA or “Act”), the EPA has established national ambient air quality standards (NAAQS or “standards”) for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established.

In October 2006, the EPA revised the 24-hour NAAQS for fine particulate matter (particles with a diameter of 2.5 microns or less or PM<sub>2.5</sub>)<sup>1</sup> (“2006 PM<sub>2.5</sub> NAAQS”) to provide increased protection of public health by lowering its level from 65 micrograms per cubic meter (µg/m<sup>3</sup>) to 35 µg/m<sup>3</sup>.<sup>2</sup>

Epidemiological studies have shown statistically significant correlations between elevated PM<sub>2.5</sub> levels and premature mortality. Other important health effects associated with PM<sub>2.5</sub> exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and

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<sup>1</sup> The EPA established both primary and secondary standards for the 2006 24-hour PM<sub>2.5</sub> NAAQS. Primary standards provide public health protection, including protecting the health of “sensitive” populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Since the primary and secondary standards for 24-hour PM<sub>2.5</sub> are set at the same level, we refer to them herein using the singular “2006 PM<sub>2.5</sub> NAAQS” or “2006 PM<sub>2.5</sub> standard.”

<sup>2</sup> 71 FR 61144 (October 17, 2006). The EPA set the first NAAQS for PM<sub>2.5</sub> on July 18, 1997 (62 FR 36852), including annual standards of 15 µg/m<sup>3</sup> based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations and 24-hour (daily) standards of 65 µg/m<sup>3</sup> based on a 3-year average of 98<sup>th</sup> percentile 24-hour concentrations (40 CFR 50.7). In 2012, the EPA revised the annual standard to lower its level to 12 µg/m<sup>3</sup>. 78 FR 3086 (January 15, 2013), codified at 40 CFR 50.18. Unless otherwise noted, all references to the PM<sub>2.5</sub> standard in this notice are to the 2006 24-hour standard of 35 µg/m<sup>3</sup> codified at 40 CFR 50.13.

restricted activity days), changes in lung function and increased respiratory symptoms. There is also new evidence for more subtle indicators of cardiovascular health. Individuals particularly sensitive to PM<sub>2.5</sub> exposure include older adults, people with heart and lung disease, and children.<sup>3</sup>

PM<sub>2.5</sub> can be emitted directly into the atmosphere as a solid or liquid particle (primary PM<sub>2.5</sub> or direct PM<sub>2.5</sub>) or can be formed in the atmosphere as a result of various chemical reactions from precursor emissions of nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (secondary PM<sub>2.5</sub>).<sup>4</sup>

#### *B. South Coast Designations, Classifications, and Attainment Dates for the 2006 PM<sub>2.5</sub> NAAQS*

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. Effective December 14, 2009, the EPA designated Los Angeles-South Coast Air Basin (“South Coast”) as a nonattainment area for the 2006 PM<sub>2.5</sub> NAAQS.<sup>5</sup> In June 2014, the EPA classified the South Coast as a “Moderate” nonattainment area for the 2006 PM<sub>2.5</sub> NAAQS under subpart 4 of part D, title I of the Act.<sup>6</sup>

In January 2016, the EPA reclassified the South Coast as a Serious nonattainment area, based on our determination that the area could not practicably attain the 2006 PM<sub>2.5</sub> NAAQS by

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<sup>3</sup> EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P-99/002aF and EPA/600/P-99/002bF, October 2004.

<sup>4</sup> 81 FR 58010, 58011 (August 24, 2016).

<sup>5</sup> 74 FR 58688 (November 13, 2009). The South Coast 2006 PM<sub>2.5</sub> NAAQS nonattainment area includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County. A precise description of the South Coast PM<sub>2.5</sub> nonattainment area is contained in 40 CFR 81.305. The South Coast PM<sub>2.5</sub> nonattainment area is home to about 17 million people, has a diverse economic base, and contains one of the highest volume port areas in the world.

<sup>6</sup> 79 FR 31566 (June 2, 2014).

the applicable attainment date of December 31, 2015.<sup>7</sup> As a consequence, California was required to submit a nonattainment new source review program revision and a Serious area attainment plan, including a demonstration that the plan provides for attainment of the 2006 PM<sub>2.5</sub> NAAQS in the South Coast as expeditiously as practicable, but no later than December 31, 2019, which is the latest permissible attainment date under CAA section 188(c)(2).

The local air district with primary responsibility for developing a plan to attain the 2006 PM<sub>2.5</sub> NAAQS in this area is the South Coast Air Quality Management District (“District” or SCAQMD). The District works cooperatively with the California Air Resources Board (CARB) in preparing these plans. Authority for regulating sources in the South Coast is split between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources and some categories of consumer products. In 2017, in response to the area’s classification as a Serious nonattainment area for the 2006 PM<sub>2.5</sub> NAAQS, SCAQMD and CARB prepared and submitted state implementation plan (SIP) revisions to address the related CAA requirements.<sup>8</sup> In 2019, the EPA approved the SIP revisions for the South Coast for the 2006 PM<sub>2.5</sub> NAAQS except for the contingency measure element.<sup>9</sup> On June 5, 2020, the EPA Region IX Regional Administrator signed a notice proposing to conditionally approve the contingency measure element as meeting the applicable Serious area requirements for the 2006 PM<sub>2.5</sub> NAAQS.<sup>10</sup>

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<sup>7</sup> 81 FR 1514 (January 13, 2016).

<sup>8</sup> The first SIP revision submission is the 2006 PM<sub>2.5</sub> NAAQS portion of the “Final 2016 Air Quality Management Plan (March 2017),” adopted by the SCAQMD Governing Board on March 3, 2017 (“2016 AQMP”). CARB submitted the 2016 AQMP to the EPA on April 27, 2017. The second submission, also submitted to the EPA on April 27, 2017, is CARB’s “2016 State Strategy for the State Implementation Plan (March 2017)” (“2016 State Strategy”).

<sup>9</sup> 84 FR 3305 (February 12, 2019).

<sup>10</sup> A pre-publication copy of this proposal is included in the docket for this rulemaking. We expect it to be published

## II. Proposed Determination and Consequences

### *A. Applicable Statutory and Regulatory Provisions*

Sections 179(c)(1) and 188(b)(2) of the CAA require the EPA to determine whether a PM<sub>2.5</sub> nonattainment area attained the applicable PM<sub>2.5</sub> NAAQS by its applicable attainment date, based on the area's air quality as of the attainment date.

A determination of whether an area's air quality meets the PM<sub>2.5</sub> NAAQS is generally based upon the most recent three years of complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) in a nonattainment area and entered into the EPA's Air Quality System (AQS) database. Data from ambient air monitors operated by state and local agencies in compliance with the EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of areas.<sup>11</sup> All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, Appendix N.

Under EPA regulations in 40 CFR 50.13 and in accordance with 40 CFR part 50, Appendix N, the 2006 PM<sub>2.5</sub> NAAQS is met when the design value is less than or equal to 35 µg/m<sup>3</sup> at each eligible monitoring site within the area.<sup>12</sup> Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have

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in the *Federal Register* soon.

<sup>11</sup> See 40 CFR 50.13; 40 CFR part 50, Appendix N; 40 CFR part 53; 40 CFR part 58, and 40 CFR part 58, Appendices A, C, D, and E.

<sup>12</sup> The 24-hour PM<sub>2.5</sub> standard design value is the 3-year average of 98th percentile concentrations, and the 2006 24-hour PM<sub>2.5</sub> NAAQS are met when the standard design value at each eligible monitoring site is less than or equal to 35.0 µg/m<sup>3</sup>.

valid data.

### *B. Monitoring Network Considerations*

Section 110(a)(2)(B)(i) of the CAA requires states to establish and operate air monitoring networks to compile data on ambient air quality for all criteria pollutants. Our monitoring requirements are specified by regulation in 40 CFR part 58. These requirements are applicable to state and, where delegated, local air monitoring agencies that operate criteria pollutant monitors. Our regulations in 40 CFR part 58 establish specific requirements for operating air quality surveillance networks to measure ambient concentrations of PM<sub>2.5</sub>, including requirements for measurement methods, network design, quality assurance procedures, and in the case of large urban areas, the minimum number of monitoring sites designated as SLAMS.

In section 4.7 of Appendix D to 40 CFR part 58, the EPA specifies design criteria for PM<sub>2.5</sub> monitoring at SLAMS. SLAMS produce data that are eligible for comparison with the NAAQS, and therefore, the monitor must be an approved federal reference method (FRM), federal equivalent method (FEM), or approved regional method (ARM). The minimum number of SLAMS required is described in section 4.7.1, and can be met by either filter-based or continuous FRMs or FEMs. The monitoring regulations also provide that each core-based statistical area must operate a minimum number of PM<sub>2.5</sub> continuous monitors (section 4.7.2); however, this requirement can be met by either an FEM or a non-FEM continuous monitor, and the continuous monitors can be located with other SLAMS or at a different location. Consequently, the monitoring requirements for PM<sub>2.5</sub> can be met with filter-based FRMs/FEMs, continuous FEMs, continuous non-FEMs, or a combination of monitors at each required SLAMS.

Under 40 CFR 58.10, states are required to submit annual network plans for ambient air monitoring networks for approval by the EPA. Within the South Coast Air Basin, the District and the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation (“Pechanga Band”) are the agencies responsible for assuring that the area meets PM<sub>2.5</sub> air quality monitoring requirements. The District submits annual monitoring network plans (ANP) to the EPA that describe the various monitoring sites operated by the District. The Pechanga Band does the same for the monitoring site it operates. These plans discuss the status of the air monitoring network, as required under 40 CFR section 58.10. The EPA regularly reviews these annual network plans for compliance with the applicable reporting requirements in 40 CFR part 58. The most recent plan submitted by the District is the 2019 ANP, dated July 1, 2019. On October 29, 2019, the EPA approved those portions of the District’s 2019 ANP that pertain to the adequacy of the network for PM<sub>2.5</sub> monitoring purposes.<sup>13</sup> The most recent plan submitted by the Pechanga Band is the 2018 ANP, dated July 1, 2018. On October 29, 2018, the EPA approved those portions of the Pechanga Band’s 2018 ANP that pertain to the adequacy of the network for PM<sub>2.5</sub> monitoring purposes.<sup>14</sup> Although the EPA has not received the 2019 ANP for the Pechanga Band, because we have approved the 2018 ANP elements and because the Pechanga Band’s monitoring site is one of the lower design value sites in the area, approval of a 2019 ANP is not necessary for this action.

During the 2017-2019 period, PM<sub>2.5</sub> ambient concentration data that are eligible for use

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<sup>13</sup> Letter dated October 29, 2019, from Gwen Yoshimura, Manager, EPA Region IX, Air Quality Analysis Office, to Matt Miyasato, Deputy Executive Officer, Science and Technology Advancement, SCAQMD.

<sup>14</sup> Letter dated October 29, 2018, from Gwen Yoshimura, Manager, EPA Region IX, Air Quality Analysis Office, to Kelcey Stricker, Environmental Director, Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation.

in determining whether an area has attained the PM<sub>2.5</sub> NAAQS were collected at a total of 18 sites within the South Coast. The District operates 17 of these sites while the Pechanga Band operates one site. All of the sites are designated SLAMS for PM<sub>2.5</sub>.<sup>15</sup> The primary monitors at all 17 District sites are FRMs, while the primary monitor at the Pechanga site is a beta attenuation monitor FEM.

Based on our review of the PM<sub>2.5</sub> monitoring network, we find that the monitoring network in the South Coast is adequate for the purpose of collecting ambient PM<sub>2.5</sub> concentration data for use in determining whether the South Coast attained the 2006 24-hour PM<sub>2.5</sub> NAAQS by the December 31, 2019 attainment date.

### *C. Data Considerations and Proposed Determination*

Under 40 CFR 58.15, monitoring agencies must submit a letter to the EPA each year to certify that all of the ambient concentration and quality assurance data for the previous year have been submitted to AQS and that the ambient concentration data are accurate to the best of their knowledge, taking into consideration the quality assurance findings. The letter must address data for all FRM, FEM, and ARM monitors at SLAMS and special purpose monitoring stations that meet the criteria specified in 40 CFR 58, Appendix A. The District<sup>16</sup> and the Pechanga Band<sup>17</sup> submit this certification annually, as required by 40 CFR 58.15.

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<sup>15</sup> There are a number of other PM<sub>2.5</sub> monitoring sites within the South Coast, including other sites operated by the District, the National Park Service, and certain Indian tribes, but the data collected from these sites are non-regulatory and not eligible for use in determining whether the South Coast has attained the PM<sub>2.5</sub> NAAQS.

<sup>16</sup> For example, see letter dated April 30, 2020, from Jason Low, Assistant Deputy Executive Officer, Science and Technology Advancement, SCAQMD, to John Busterud, Regional Administrator, EPA Region IX, certifying calendar year 2019 ambient air quality data and quality assurance data.

<sup>17</sup> For example, see letter dated April 29, 2020, from Kelcey Stricker, Environmental Director, Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, to Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, certifying calendar year 2019 ambient air quality data and quality assurance data.

As noted in section II.A of this document, CAA sections 179(c)(1) and 188(b)(2) require the EPA to determine whether a PM<sub>2.5</sub> nonattainment area attained the applicable PM<sub>2.5</sub> standards by the applicable attainment date, based on the area's air quality "as of the attainment date." For the reasons discussed in section I.B of this document, the South Coast's attainment date for the 2006 24-hour PM<sub>2.5</sub> NAAQS was December 31, 2019. Because determinations of PM<sub>2.5</sub> NAAQS compliance are based on three calendar years of data,<sup>18</sup> to determine the South Coast's air quality as of December 31, 2019, we reviewed the data collected during the three-year period immediately preceding December 31, 2019, i.e., January 1, 2017 – December 31, 2019.

We verified that the data for the 2017-2019 period have been certified by the District, and then we reviewed the data for completeness.<sup>19</sup> We described the most recent annual data certifications from the District and the Pechanga Band in section II.B of this document. With respect to completeness, we determined that the data collected by the District meet the quarterly completeness criterion for all 12 quarters of the three-year period at most of the PM<sub>2.5</sub> monitoring sites in the South Coast.

More specifically, among the 18 PM<sub>2.5</sub> monitoring sites from which regulatory data are available, the data from 6 of the sites did not meet the 75% completeness criterion for at least one quarter in the 2017-2019 period; however, the data from all but one site (Pechanga) are sufficient nonetheless to produce a valid design value for the 24-hour PM<sub>2.5</sub> NAAQS pursuant to

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<sup>18</sup> 40 CFR part 50, Appendix N.

<sup>19</sup> The Pechanga Band has not yet submitted a letter certifying data for calendar year 2018. However, certified data from the District for 2017-2019 are sufficient to demonstrate that the area did not attain the NAAQS during this period.

the rules governing design value validity in 40 CFR part 50, Appendix N, section 4.2. We note that monitors with incomplete data in one or more quarters may still produce valid design values if the conditions for applying one of the EPA's data substitution tests are met.<sup>20</sup>

Table 1 shows the 24-hour PM<sub>2.5</sub> design values at each of the 18 monitoring sites within the South Coast nonattainment area for the relevant three-year period (2017-2019). The table shows that the 24-hour PM<sub>2.5</sub> design values for the 2017-2019 period are greater than 35.0 µg/m<sup>3</sup> at two of the sites.

Table 1 - 2017-2019 24-Hour PM <sub>2.5</sub> Design Values for the South Coast Nonattainment Area					
General Location	Site (AQS ID)	98 <sup>th</sup> Percentile (µg/m <sup>3</sup> )			2017-2019 24-Hour Design Values (µg/m <sup>3</sup> )
		2017	2018	2019	
LOS ANGELES COUNTY					
East San Gabriel Valley	Azusa (06-037-0002)	21.2	30.2	22.8	25
Central Los Angeles	Los Angeles (Main St.) (06-037-1103)	30.9	34.1	28.3	31
West San Fernando Valley	Reseda (06-037-1201)	20.7	23.8	26.3	24
South Central Los Angeles County	Compton (06-037-1302)	53.4	34.8	26.6	38
South San Gabriel Valley	Pico Rivera #2 (06-037-1602)	29.5	35.4	27.5	31
West San Gabriel Valley	Pasadena (06-037-2005)	18.8	29.5	27.5	25
South Coastal Los Angeles County	Long Beach (North) (06-037-4002)	32.3	33.0	20.7	29

<sup>20</sup> See 40 CFR part 50, Appendix N, section 4.2(b) for the 24-hour PM<sub>2.5</sub> NAAQS.

South Coastal Los Angeles County	South Long Beach (06-037-4004)	31.1	33.5	23.2	29
South Coastal Los Angeles County	Long Beach-Route 710 Near Road (06-037-4008)	35.6	36.1	26.4	33
<b>ORANGE COUNTY</b>					
Central Orange County	Anaheim (06-059-0007)	38.1	32.1	23.8	31
Saddleback Valley	Mission Viejo (06-059-2022)	15.0	20.3	14.7	17
<b>RIVERSIDE COUNTY</b>					
Temecula Valley	Pechanga (06-065-0009)	13.6	14.7	9.5	13*
Metropolitan Riverside County	Rubidoux (06-065-8001)	30.7	28.2	32.7	31
Mira Loma	Mira Loma (Van Buren) (06-065-8005)	39.9	34.2	36.2	<b>37</b>
<b>SAN BERNARDINO COUNTY</b>					
Southwest San Bernardino Valley	Ontario-Route 60 Near Road (06-071-0027)	36.9	32.7	31.4	34
Central San Bernardino Valley	Fontana (06-071-2002)	26.5	26.8	35.7	30
East San Bernardino Mountains	Big Bear (06-071-8001)	23.5	16.0	31.0	24
Central San Bernardino Valley	San Bernardino (06-071-9004)	25.6	22.9	34.8	28
*The design value for the Pechanga site is invalid. All other design values are valid. Source: EPA, AQS Design Value Report (AMP480), Report Request ID: 1846520, June 3, 2020.					

For an area to attain the 2006 PM<sub>2.5</sub> NAAQS by December 31, 2019, the 2019 design value (reflecting data from 2017-2019) at each eligible monitoring site must be equal to or less than 35 µg/m<sup>3</sup>. Table 1 shows that the 2019 design values at two sites in the South Coast are greater than that value. The 2019 annual design value site, i.e., the site with the highest design value based on 2017-2019 data, is the Compton site with a 2019 24-hour PM<sub>2.5</sub> design value of 38 µg/m<sup>3</sup>. Therefore, based on quality-assured and certified data for 2017-2019, we are

proposing to determine that the South Coast failed to attain the 2006 PM<sub>2.5</sub> standard by the December 31, 2019 attainment date.

A monitoring agency may request that the EPA exclude data showing exceedances or violations of the standard from use in regulatory determinations by demonstrating that an exceptional event caused a specific air pollution concentration at a particular air quality monitoring location.<sup>21</sup> If the EPA concurs that the exceedance or violation was caused by an exceptional event, the relevant data will be excluded from the design value calculation. A monitoring agency notifies the EPA of its intent to request exclusion of concentrations by placing a “flag” in the appropriate AQS field for the data of concern.

For PM<sub>2.5</sub> ambient data collected from 2017-2019, the District flagged one 24-hour concentration at the Compton site and two 24-hour concentrations at the Mira Loma site due to fireworks, and one additional 24-hour concentration at the Compton site due to wildfire. The District also flagged multiple 24-hour concentrations at several other sites in the South Coast due to either fireworks or wildfire; however, these sites already have attaining design values for the 24-hour PM<sub>2.5</sub> NAAQS.<sup>22</sup>

The State has not provided a demonstration that the flagged data were caused by exceptional events and has not requested EPA concurrence on the flagged data. Consequently, the EPA has not reviewed the flagged data to determine if they were influenced by an exceptional event, and the flagged data are included in the set of data used to determine whether the standard was attained. However, even if the flagged data were excluded, the two exceeding

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<sup>21</sup> 40 CFR 50.14.

<sup>22</sup> EPA, AQS Raw Data Qualifier Report (AMP360), Report Request ID: 1846503, June 3, 2020.

design values reported in Table 1 would remain above the NAAQS.<sup>23</sup>

Specifically, if all the flagged data were to be excluded, the 2019 24-hour PM<sub>2.5</sub> design value at the Compton monitoring site would be 37 µg/m<sup>3</sup> instead of 38 µg/m<sup>3</sup> and the design value for the Mira Loma site would remain 37 µg/m<sup>3</sup>. Thus, the two sites would still fail to attain the applicable standard of 35 µg/m<sup>3</sup>. Also, exclusion of flagged data at other sites in the South Coast area that already have design values that attain the NAAQS would not affect the conclusions regarding the two sites that have design values above the NAAQS.

*D. Consequences for a Serious PM<sub>2.5</sub> Nonattainment Area Failing to Attain the Standards by the Attainment Date*

The consequences for a Serious PM<sub>2.5</sub> nonattainment area for failing to attain the NAAQS by the applicable attainment date are set forth in CAA sections 179(d) and 189(d) and in 40 CFR 51.1003(c). Under these provisions, a state must submit a SIP revision for the area meeting the requirements of CAA section 110 and 172, the latter of which requires, among other elements, a demonstration of attainment and reasonable further progress, and contingency measures. CAA section 189(d) requires that the SIP revision must provide for attainment of the standards and, from the date of the SIP submittal until attainment, for an annual reduction in the emissions of direct PM<sub>2.5</sub> or a PM<sub>2.5</sub> plan precursor pollutant within the area of not less than five percent of the amount of such emissions as reported in the most recent inventory prepared for such area.<sup>24</sup> The requirement for a new attainment demonstration under CAA section 189(d) also triggers the requirement for the SIP revision for quantitative milestones as set forth in 40 CFR 51.1013.

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<sup>23</sup> EPA, AQS Design Value Report (AMP480), Report Request ID: 1846500, June 3, 2020.

<sup>24</sup> 40 CFR 51.1003(c). The EPA defines PM<sub>2.5</sub> plan precursor as those PM<sub>2.5</sub> precursors required to be regulated in the applicable attainment plan and/or nonattainment new source review program. 40 CFR 51.1000.

The new attainment date is set by 40 CFR 51.1004(a)(3). Under 40 CFR 51.1004(a)(3), the new attainment date is the date by which attainment can be achieved as expeditiously as practicable, but no later than five years from the effective date of the final determination of failure to attain. The EPA may extend the attainment date for a period no greater than 10 years from the effective date of the final determination, considering the severity of nonattainment and the availability and feasibility of pollution control measures. Lastly, consistent with section 179(d) of the CAA, 40 CFR 51.1003(c) requires that the state submit the required SIP revision within 12 months after the applicable Serious area attainment date that was missed. If the EPA finalizes this proposed rule, the State of California will be required to submit a SIP revision that complies with CAA sections 179(d) and 189(d) and 40 CFR 51.1003(c) within 12 months of December 31, 2019, i.e., by December 31, 2020.

### **III. Proposed Error Correction**

Section 110(k)(6) of the CAA, as amended in 1990, provides that, whenever the EPA determines that the EPA's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification or reclassification was in error, the EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the state.

As described in section I.B of this document, in 2009, the EPA designated areas of the country for the 2006 PM<sub>2.5</sub> NAAQS.<sup>25</sup> In so doing, we excluded the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County from the South Coast nonattainment area and designated the lands as a separate “Unclassifiable/Attainment” area for the 2006 PM<sub>2.5</sub>

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<sup>25</sup> 74 FR 58688 (November 13, 2009). The area designations for California are promulgated at 40 CFR 81.305.

NAAQS.<sup>26</sup> In 2014, in response to a court decision affecting the implementation of the PM<sub>2.5</sub> NAAQS, we classified the South Coast as Moderate for the 2006 PM<sub>2.5</sub> NAAQS.<sup>27</sup> Our 2014 final rule again excluded the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County from the South Coast Moderate nonattainment area and again listed the lands as a separate unclassifiable/attainment area for the 2006 PM<sub>2.5</sub> NAAQS.<sup>28</sup>

In 2016, we reclassified the South Coast from Moderate to Serious for the 2006 PM<sub>2.5</sub> standard, but we erroneously considered the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County to be part of the South Coast Moderate nonattainment area and revised the designation for lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County from unclassifiable/attainment to Serious nonattainment. The inclusion of the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County as part of the South Coast in our 2016 action was clearly in error because we did not propose any change in designations, such as a change in designation from unclassifiable/attainment to nonattainment, but rather only proposed a change to the classification of an existing nonattainment area.<sup>29</sup> In our 2016 action, we erroneously reclassified the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County to Serious in concert with the reclassification of the South Coast nonattainment area in which we mistakenly thought the lands were located. We are proposing to correct this error and revise the table for California area designations for the 2006 PM<sub>2.5</sub> NAAQS in 40 CFR 81.305, accordingly.

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<sup>26</sup> Id., at 58708.

<sup>27</sup> 79 FR 31566 (June 2, 2014).

<sup>28</sup> Id., at 31597.

<sup>29</sup> 80 FR 63640 (October 20, 2015) (proposed reclassification of the South Coast from Moderate to Serious for the 2006 PM<sub>2.5</sub> NAAQS).

#### **IV. Proposed Actions and Request for Public Comment**

Under CAA sections 179(c)(1) and 188(b)(2), the EPA proposes to determine that the South Coast “Serious” PM<sub>2.5</sub> nonattainment area has failed to attain the 2006 PM<sub>2.5</sub> NAAQS by the applicable attainment date of December 31, 2019. If finalized as proposed, the State of California will be required under 40 CFR 51.1003(c) to submit a revision to the SIP for the South Coast that, among other elements, demonstrates expeditious attainment of the NAAQS within the time period prescribed by 40 CFR 51.1004(a)(3) and that provides for annual reduction in the emissions of direct PM<sub>2.5</sub> or a PM<sub>2.5</sub> plan precursor pollutant within the area of not less than five percent until attainment. The SIP revision required under 40 CFR 51.1003(c) would be due for submittal to the EPA no later than December 31, 2020.

We are also proposing to correct an error in a previous rulemaking and restore the designation of “Unclassifiable/Attainment” for the 2006 PM<sub>2.5</sub> NAAQS for the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County in the appropriate table in 40 CFR 81.305.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

#### **V. Statutory and Executive Order Reviews**

This proposed action in and of itself establishes no new requirements; it merely documents that air quality in the South Coast did not meet the 2006 PM<sub>2.5</sub> NAAQS by the applicable attainment date. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian tribes and thus this proposed action will not impose substantial direct costs on tribal governments or preempt tribal law. Nonetheless, the EPA has notified the tribes within the South Coast PM<sub>2.5</sub> nonattainment area of the proposed action and offered formal consultation. No tribe requested formal consultation.

## **List of Subjects**

### **40 CFR Part 52**

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

### **40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 26, 2020.

John Busterud,  
Regional Administrator,  
Region IX.

[FR Doc. 2020-14299 Filed: 7/9/2020 8:45 am; Publication Date: 7/10/2020]